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OCWEN LOAN SERVICING, LLC

8
9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
12 JAMES LINNA and CARMEN C.
13 BOLGER-LINNA,

14 Plaintiffs,

15 v.

16 OCWEN LOAN SERVICING, LLC,
17 and DOES 1 through 10, inclusive,

18 Defendants.

Case No. '15CV2239 W JLB

(San Diego County Superior Court Case
No. 37-2015-00024162-CU-BT-CTL)

**NOTICE OF REMOVAL OF CIVIL
ACTION BY DEFENDANT OCWEN
LOAN SERVICING, LLC,
PURSUANT TO 28 U.S.C. §§ 1331,
1441, and 1446**

[FEDERAL QUESTION]

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1 TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT
2 COURT, FOR THE SOUTHERN DISTRICT OF CALIFORNIA, AND TO
3 PLAINTIFFS JAMES LINNA AND CARMEN C. BOLGER-LINNA, AND
4 PLAINTIFFS' ATTORNEYS OF RECORD:

5 PLEASE TAKE NOTICE that Defendant Ocwen Loan Servicing, LLC
6 ("Ocwen") removes the above-referenced action from the Superior Court of the
7 State of California, for the County of San Diego, Case No. 37-2015-00024162-CU-
8 BT-CTL, to the United States District Court, for the Southern District of California.
9 Federal jurisdiction of this action is proper on the basis of federal question under
10 28 U.S.C. sections 1331 and 1441(c). Ocwen removes this action on the following
11 grounds:

12 **Timeliness Of Removal**

13 1. On September 9, 2015, Plaintiffs James Linna and Carmen C.
14 Bolger-Linna (collectively, "Plaintiffs") filed a First Amended Complaint in the
15 Superior Court of the State of California, for the County of San Diego, styled *James*
16 *Linna and Carmen C. Bolger-Linna, Plaintiffs v. Ocwen Loan Servicing, LLC, et al.,*
17 *Defendants*, Case No. 37-2015-00024162-CU-BT-CTL ("State Court Action"). A
18 true and correct copy of the First Amended Complaint, filed in the San Diego
19 County Superior Court, is attached to this Notice as **Exhibit A**.

20 2. The First Amended Complaint alleges causes of action for:
21 (1) Violation of Rosenthal Fair Debt Collection Practices Act; (2) Violation of Real
22 Estate Settlement Procedures Act; (3) Violation of Business & Professions Code
23 Section 17200; (4) Negligence; (5) Declaratory Relief; and (6) Intentional Infliction
24 of Emotional Distress.

25 3. Ocwen received a copy of the First Amended Complaint by email on
26 September 9, 2015.

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1 and division embracing the place where the action was pending.” 28 U.S.C.
2 § 1446(a).

3 12. This Court also supplemental jurisdiction over Plaintiffs’ state law
4 claims because they “are so related to the [federal] claims . . . that they form part of
5 the same case or controversy” 28 U.S.C. § 1367.

6 **Pleadings And Process**

7 13. **Parties:** Ocwen files this Notice of Removal on its own behalf.

8 14. **Pleadings:** Ocwen filed a response to the First Amended Complaint on
9 September 25, 2015. *See Exhibit B.*

10 15. **Proper Court:** Removal to this Court is proper under 28 U.S.C.
11 section 1441(a) because the Superior Court of California, in and for the County of
12 San Diego, is geographically located within this Court’s district and division.

13 16. **Notice:** Ocwen is serving a copy of this Notice of Removal on all
14 adverse parties and filing a copy with the clerk of the state court pursuant to
15 28 U.S.C. § 1446(d). A true and correct copy of the Notice to Adverse Parties and
16 State Court of Removal is attached to this Notice as **Exhibit D.**

17 17. **Signature:** This Notice of Removal is signed pursuant to Rule 11 of the
18 Federal Rules of Civil Procedure. *See* 28 U.S.C. § 1446(a).

19 18. **Jury Demand:** Plaintiffs do not demand a jury trial in the First
20 Amended Complaint.

21 19. By removing on the basis of federal question, Ocwen does not concede
22 or make any admissions relating to the merit and/or value of Plaintiffs’ allegations,
23 claims or damages. Ocwen denies the material allegations contained in the
24 Complaint, generally and specifically.

25 20. WHEREFORE, Ocwen respectfully requests the State Court Action be
26 removed from the state court in which it was filed to the United States District
27 Court, in and for the Southern District of California, and further requests that this

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1 Honorable Court issue all necessary orders and process and grant such other and
2 further relief as in law and justice Ocwen may be entitled to receive.

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4 Dated: October 7, 2015

Sean D. Muntz
Katherine S. Walker
BRYAN CAVE LLP

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7 By: /s/ Katherine S. Walker
Katherine S. Walker
Attorneys for Defendant
OCWEN LOAN SERVICING, LLC
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